

CITY COUNCIL, CITY OF LODI
CITY HALL COUNCIL CHAMBERS
APRIL 17, 1963

A regular meeting of the City Council of the City of Lodi was held beginning at 8:00 p.m. of Wednesday, April 17, 1963. Councilmen Brown, Culbertson, Dow, Ullmann and Katzakian (Mayor) present. None absent.

Also present: City Manager Graves, Administrative Assistant Carlton, Planning Director Rodgers and City Attorney Mullen.

MINUTES

Minutes of April 3, 1963 were approved as written and mailed on motion of Councilman Dow, Ullmann second.

PUBLIC HEARINGS

REZONING TO R-2
FORMER GENERAL
MILLS PROPERTY

ORD. NO. 747
INTRODUCED

Notice thereof having been published in accordance with law, Mayor Katzakian called for hearing on the proposal to rezone a seven-acre parcel of land formerly belonging to General Mills located along the west side of Mills Avenue and 1950 feet south of Turner Road from the "M" industrial district to the R-2 one family residential district. There were no protests, written or oral. On motion of Councilman Brown, Dow second, the City Council introduced Ordinance No. 747 rezoning property on the west side of Mills Avenue and 1950 feet south of Turner Road to R-2.

BUS TRIP
TO FRESNO
RE STORM
DRAINAGE

Mr. Vernon Rastetter of the Chamber of Commerce Zoning and Planning Committee announced that a bus trip to Fresno was being arranged for Monday, April 29, for the purpose of inspecting that City's storm drainage system. He invited members of the Council to take the trip and asked that they inform the City Manager prior to the end of next week if they could go.

JR. CHAMBER
RE SEAT BELT
INSTALLATION

Mr. Marvin Wright of the Junior Chamber of Commerce stated that the Junior Chamber wished to offer its services to install seat belts in City cars. The belts could be obtained for the City at cost and the installation would be free. Mayor Katzakian said the offer was very generous and he felt belts should be installed in police cars. City Manager Graves said that he had been waiting for the employees to show some interest in having seat belts as he was of the opinion that enforcement would be difficult if the employees were not receptive to the idea. After further consideration, it was moved by Councilman Culbertson that the offer be tabled to the next Council meeting and that at that time consideration be given to establishing a policy of having seat belts in all city cars. The motion was seconded by Councilman Brown and carried, with Councilman Dow abstaining since he is a member of the Board of Directors for the Junior Chamber.

COUNCILMAN
DOW RE
COUNCIL
BRIEFING
SESSIONS

Councilman Dow stated that he had prepared a statement which he wished to read to the Council and which he wished to have spread in the Minutes. He then read the following statement:

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"TO: The Lodi City Council and the people of Lodi

Subject: Briefing Sessions

Gentlemen:

Beginning with tonight's meeting of April 17, 1963, I will no longer participate in, nor in any manner condone the so-called 'briefing sessions' which precede every City Council meeting. By refusing to attend these 'briefing sessions', I hope to call public attention to a situation which I believe to be a clear-cut threat and danger to just and equitable local government.

It appears that there may be reason to believe that these meetings are in violation of the Ralph M. Brown Act (California Government Codes, Sections 54950 thru 54960), however, this is not my primary concern, at this point.

More important than whether we can, through some 'legal gymnastics,' justify these meetings as they relate to the Brown Act is the question whether the people of Lodi are being short-changed in their right to view all of the council's joint deliberations.

Proponents to these sessions will contend that they are merely for 'informational' purposes.

I submit that information can be adequately supplied by the city manager in his memorandum to the council. If further information is required, it is the duty of each councilman to make the necessary inquiries to get that information.

Proponents also contend that the meetings are public that the doors are unlocked and the press is invited.

The doors are 'Unlocked' but they are also closed, and the meeting room is hardly large enough to hold the council, manager, planning director and city attorney, much less any members of the public. The press is, I am told, invited, but it has been my experience that the discussion is noticeably 'checked' when the press is in attendance, and in their absence, remarks by other councilmen, concerning the press, are not exactly complimentary.

Proponents contend that legislative officials are not expected to do their thinking in a 'glass house.'

I believe that if such public officials are not willing to make an open and unashamed disclosure of the rationale through which they arrive at their conclusions, they don't belong in public office. Quoting from Deputy Attorney General for the State of California, Roderic Duncan, in an address before the Local Government Law Section of the American Bar Association, Mr. Duncan said, '...secret meetings are exposed for what they really are: the tool of the lazy or the inept public official.' An examination of Mr. Duncan's speech clearly shows that his remarks were directed not just at meetings that were unquestionably within the purview of the Brown Act, but any attempt by public bodies to withhold from the people information which is rightfully theirs.

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My decision to take the position herein described, has come only after a thorough study of the Brown Act, all pertinent opinions of the California Attorney General, recent cases brought before our courts, statements and opinions expressed by leading authorities in the field, and a year of attempting to cooperate with other City Council members and members of the City's Administration in the hope of avoiding direct and public confrontation which might prove embarrassing to those people.

I believe my point of view is consistent with recognized authorities in the field, and with that of the League of California Cities.

But, more important, I believe my position is consistent with the desires of the people of Lodi. It is my hope that the public will offer its support on this issue, that these 'briefing sessions' and other meetings like them will be discontinued, and that this will be but a step toward achieving a more workable and responsible city government for the people of Lodi.

Respectfully submitted:

Orwin N. Dow
City Councilman
City of Lodi"

Councilman Dow moved that briefing sessions before Council meetings be discontinued. The motion was seconded by Councilman Ullmann. There was considerable discussion concerning these sessions, other members of the Council saying that briefing sessions have been customary for a long period of time, that they are open to the press if they wish to attend, and that matters for the Council often come to the City Manager after the agenda is out and it helps to get background information on such matters before the meeting. The motion failed to pass by the following vote:

AYES: Councilmen - DOW

NOES: Councilmen - BROWN, CULBERTSON, ULLMANN
and KATZAKIAN

COMMUNICATIONS

OUTSIDE WATER SERVICE

A letter was read from Richard C. Johnson requesting the Council to grant permission for temporary connections to the City's water, sewer, electric and drainage systems for his property at the southwest corner of Willow and Tokay Streets which is outside the City limits. He agrees that if the service is granted he will pursue annexation of this property to the City. Planning Director Rodgers pointed out that the letter was a form letter used for applications for outside service and actually Mr. Johnson was only interested in receiving water from the City because his well goes dry in the summer. The property is in the Wisner Tract and other property owners may have the same problems as Mr. Johnson. The question was raised as to whether granting such requests would defeat annexation. Councilman Culbertson felt that this tract would be annexed to the City within a few years and therefore Mr. Johnson should be allowed to connect to City water since it would

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not be harmful to the City and would save Mr. Johnson considerable expense. The connection would be temporary and could be discontinued whenever the City so desired. Mayor Katzakian felt that since Mr. Johnson did not need the service immediately, further consideration should be given to the request. Councilman Culbertson moved that the request for water service be granted on the condition that the letter of request be reworded to cover the water connection only. The motion was seconded by Councilman Dow and carried by the following vote:

AYES: Councilmen - BROWN, CULBERTSON, DOW and ULLMANN

NOES: Councilmen - KATZAKIAN

RIVER ADDN.
ANNEXATION

RES. NO. 2621
ADOPTED

A petition was presented from all the owners of 145 acres between Turner Road and the Mokelumne River and west of the Willow Glen Subdivision requesting the property be annexed to the City as the River Addition under the provisions of the Annexation of Uninhabited Territory Act of 1939. There are less than twelve registered voters in said territory and the boundaries thereof have been approved by the County Boundary Commission. On motion of Councilman Brown, Culbertson second, the City Council adopted Resolution No. 2621, resolution of intention to annex the River Addition to the City of Lodi and setting public hearing thereon for June 5, 1963.

CVD, LCC

Notice was received of the Central Valley Division, League of California Cities, meeting to be held in the City of Modesto on Friday, April 26, 1963.

REPORTS OF THE CITY MANAGER

CLAIMS

Claims in the amount of \$183,812.64 were approved on motion of Councilman Culbertson, Dow second.

AWARD -
LODI AVENUE
STORM DRAIN

RES. NO. 2622
ADOPTED

The following bids were received for the Lodi Avenue Storm Drain project:

A. Teichert & Son	\$ 6,950.00
Fine & Young	6,680.00
S. M. McGaw	5,952.50
D. A. Parrish	5,872.50
Wm. Burkhardt	5,546.00
W. M. Lyles	4,567.00

Award was made to the low bidder, W. M. Lyles Company, by the adoption of Resolution No. 2622 on motion of Councilman Brown, Culbertson second.

AWARD -
CONCRETE PIPE

RES. NO. 2623
ADOPTED

Two bids were received for the concrete pipe for the above project, as follows:

Spiekerman Concrete Pipe Co.	\$1530.00
Mumbert Concrete Pipe Co.	1487.50

Both bids are plus State sales tax and subject to 5% cash discount. On motion of Councilman Culbertson, Dow second, the City Council adopted Resolution No. 2623 awarding the contract for the concrete pipe to J. W. Mumbert Concrete Pipe Company.

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AWARD -
CURB & GUTTER
FOR STREET
WIDENING
PROJECTS

The City Manager then presented the bids received on the Construction of Curb, Gutter and Sidewalk for Miscellaneous Street Widening Projects, as follows:

RES. NO. 2624
ADOPTED

Sterling Company	\$2067.50
Wm. Burkhardt	1516.00

Award was made to the low bidder, Wm. Burkhardt, by the adoption of Resolution No. 2624 on motion of Councilman Brown, Ullmann second.

LODI AVENUE
RECONSTRUCTION

City Manager Graves stated that the administration would like to receive guidance from the Council concerning the reconstruction of Lodi Avenue west of Ham Lane. At the present time there is a 24" storm drain in Lodi Avenue between Ham Lane and Mills Avenue which is practically exposed at Ham Lane and at Corinth and lies just off the south edge of the existing pavement. It would be impossible to reconstruct the street over this drain and, besides, the City has plans to replace this line at some future date with a 60" line. Therefore, the Public Works Department is considering reconstruction between Ham Lane and a point between Corinth and Mills to the full width on the north side and to approximately 10 feet south of the section line on the south side. The balance of the street would be reconstructed its full width in some areas in other areas only a portion of the street would be reconstructed. The County has been contacted regarding contributing to the cost of such portions of the street that are within the County, but no commitment has been received. The Council discussed the feasibility of the proposal and questioned partial development of the street. It was decided that the City Manager should get more information and report to the Council on the reconstruction of both East Lodi Avenue and West Lodi Avenue. Councilman Dow suggested that a survey be made of trouble spots throughout the City, such as low areas on Gerard and Louie. City Manager Graves said he would check and see what could be done.

DRIVEWAY
REQUEST
1112 S.
HUTCHINS

Mr. Graves presented a request for the construction of two, 30-foot driveways at 1112 South Hutchins Street which would provide access to two, 4-place garages serving two fourplexes. The plot plan for the driveways has been approved by the Public Works Department which recommends that the request be granted. Councilman Brown moved that the request for two, 30' driveways at 1112 South Hutchins Street be granted. The motion was seconded by Councilman Ullmann and carried.

CURB AND
GUTTER
REPLACEMENT
PROGRAM

The City Manager presented three alternate plans for the reconstruction of curb, gutter and sidewalk in the 500 block of East Locust Street and in the 400 and 500 blocks of Hilborn, Flora and Eden Streets. Alternate No. 1 provides for the removal and replacement of bad curb and gutter and repair or replacement of broken or raised sidewalk. This is the least costly plan, but would leave an inadequate planting strip of from two to four feet. Alternate No. 2 provides for removal and replacement of curb and gutter, all trees, and existing sidewalk, replacing the sidewalk next to the curb and planting trees behind the sidewalk. This would result in the loss of 156 shade trees. Alternate No. 3 provides for removal and replacement of all curb and gutter, narrowing the street by four feet

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which would leave a paved width of 37 feet and a planting strip of 5½ feet. All healthy trees would remain and new trees would be planted in line with existing trees. Sidewalk would be replaced where necessary. The City assumes the cost for the curb and gutter and the property owner is responsible for payment of any sidewalk replacement. Mr. Graves recommended approval of Alternate #3. The cost of Alternate #3 would be around \$32,115, including about \$2,675 to be paid by property owners for sidewalk. Since funds for the project in the present budget amount to \$20,000 a portion of the project would need to be deferred until the next fiscal year. After Council discussion of the various plans, it was moved by Councilman Brown, Ullmann second, that Alternate #3 plan be adopted and that the portion of the program for Locust Street be deferred for inclusion in the 1963-64 budget. The motion carried by unanimous vote.

FALSE ARREST
SUIT

City Attorney Mullen stated that a suit had been filed against two of the City's police officers on false arrest charges. He stated that he would be representing the officers which would call for extra compensation. Councilman Dow moved that the City Attorney proceed with the action to defend the police officers and that he be compensated therefor. The motion was seconded by Councilman Culbertson and carried. Mr. Mullen said that in 1955 the Police Department had asked about false arrest insurance and at that time it was felt that the possibilities of recovery were so slim that it would be less expensive to provide for an attorney in case of a suit than to pay for the insurance. Mayor Katzakian said the City should await the outcome of the present suit before making a decision on whether or not to get insurance. It was suggested that the City's Agent of Record be asked to obtain current figures on false arrest insurance.

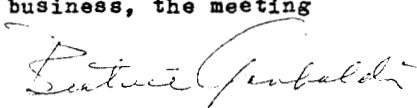
SISTER-CITY
CONFERENCE
REPORT

Councilman Culbertson gave a report on the conference which he and Mr. George Creighton had attended in Los Angeles on the sister-city, people-to-people program. He said the conference was inspirational and informative. He said that programs in other cities were headed by a citizens committee and suggested that a citizens committee be formed to carry on the local sister city program. As a start, he suggested that the Council appoint a nucleus of four or five and then let them organize the committee and carry on from there. Mayor Katzakian asked members of the Council to submit names within a month.

VISIBILITY -
NW CORNER HAM
& LODI AVE.

Mr. Vernon Rastetter mentioned the poor visibility at the northwest corner of Ham and Lodi Avenue for cars entering Lodi Avenue from the north. The City Manager said he would have the corner investigated.

There being no further business, the meeting adjourned.


Attest: BEATRICE GARIBALDI
City Clerk